

Re N (Child Abduction: Jurisdiction) (1994)

(1995) 2 WLR 233 : (1995) 2 All ER 417

01/08/1994

Barristers

Henry Setright KC

Court

Family Division

Summary

Family Division has jurisdiction to make an interim order in respect of a child who is not yet in the UK but who is expected to arrive there.

Facts

Application by US mother for an order under the Child Abduction and Custody Act 1985 s.5 requiring the Iraqi father to return their son to her pending an inter partes hearing to be served on the father at Heathrow Airport on his arrival from Iraq.

Held

HELD: The child was subject to Californian court orders that he should not be removed from California without consent of both parties or leave of the court and had been abducted by the father when the child was having an agreed weekend contact. The Californian court had ordered the boy's return. The father had agreed to meet the mother in London with the boy to discuss the child's future. Although the child was not yet within the jurisdiction of the court the Convention on the Civil Aspects of International Child Abduction imposed a duty on the court to co-operate with all other contracting states and to act expeditiously. There was jurisdiction under s.5 of the 1985 Act to make interim directions in respect of a child who had not yet arrived in the UK but who was expected to arrive. Application granted ex parte.

Permission

Lawtel 